

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 400 of 1992

WITH

SPECIAL CIVIL APPLICATIONS NOS. 400 OF 1992, 554, 777, 2192, 6724, 6725, 6889, 6890, 6891, 6892, 6893, 6894, 6959, 7328, 7331, 7334, 7335, 7471, 8032, 8033, 8082, 9625, 9887 ALL OF 1992.

SPECIAL CIVIL APPLICATIONS NOS. 57, 68, 261, 274, 275, 276, 277, 278, 279, 280, 281, 419, 467, 647, 731, 780, 784, 908, 911, 933, 1129, 1178 TO 1189, 1191, 1260 TO 1263, 1300 TO 1312, 1333, 1379, 1385, 1386, 1387, 1388, 1389 TO 1401, 1407, 1409 TO 1413, 1515 TO 1524, 1528 TO 1532, 1561 TO 1591, 1608, 1650 TO 1652, 1663 TO 1673, 1680 TO 1686, 1700 TO 1708, 1733 TO 1736, 1738 TO 1742, 1748 TO 1768, 1779 TO 1781, 1783, 1806 (WITH SCA 1807/93) 1811 TO 1826, 1896 TO 1903, 1905 TO 1922, 1954, 1972 TO 1976, 1986 TO 1990, 2062, 2091, 2097 TO 2102, 2155 TO 2169, 2172 TO 2184, 2188 TO 2202, 2206, 2211, 2212, 2240, 2265, 2266, 2299, 2306, 2307 TO 2315, 2318 TO 2322, 2328 TO 2333, 2340 TO 2372, 2415 TO 2416, 2489, 2491, 2492, 2495, 2496, 2498, 2522 TO 2528, 2531 TO 2537, 2539, 2572 TO 2578, 2619, 2625 TO 2640, 2642 TO 2644, 2654, 2662, 2665, 2691 TO 2699, 2701 TO 2715, 2732, 2738, 2741 to 2743, 2745 to 2756, 2775 to 2787, 2789, 2828, 2854, 2866 to 2879, 2892 to 2896, 2898 to 2908, 2915, 2946, 2948, 2950, 2952, 2957, 2958 to 2961, 2991 to 3016, 3018, 3019, 3032, 3033, 3052 to 3054, 3059 to 3063, 3078 to 3085, 3090 to 3094, 3099, 3119, 3120, 3145 to 3195, 3206, 3207, 3230, 3242 to 3246, 3264 to 3269, 3273 to 3285, 3287, 3289 to 3303, 3305 to 3312, 3324 to 3325, 3353, CAA/1936/93 with SCA/3198/93 to 3204/93, 3355 to 3356, 3360, 3365, 3474, 3478, 3480, 3488 to 3567, 3763, 3766, 3767, 3771, 3788 to 3810, 3817, 3823, 3824, 3868, 3871, 3874 to 3877, 3906 to 3910, 3914, 3925 to 3934, 3944 to 3956, 3958 to 3986, 3999, 4050, 4053 (WITH 4054), 4065, 4067 to 4071, 4082, 4202 to 4204, 4211 to 4219, 4235, 4269, 4341 to 4344, 4354, 4360, 4362, 4363, 4365, 4430, 4549, 4671 (with SCA 4690, 4699, 4700, 4707, 4676 TO 4681, 4684, 4686, 4689), 4672, 4683, 4685, 4687, 4695, 4698, 4701, 4706, 4688, 4691 TO 4694, 4696, 4702 TO 4703, 4705, 4709 to 4713, 4715, 5143, 5149, (with sca 5150/93), 5151 to 5152, 5154, 5361, 5364, 5368, 5429 to 5431, 5438, 5482, 5497 to 5506, 5519 to 5528, 5530 to 5533, 5570, 5646, 5655 to 5668, 5671 to 5688, 5814 to 5817,

5834, 5835, 5856, 5858 to 5865, 5885 to 5887, 5901, 5912, 5915, 5920 to 5921, 5962 to 5969, 6004 to 6009, 6067, 6103, 6104, 6107, 6108, 611, 6112, 6115, 6117 to 6127, 6174, 6208, 6218, 6282 to 6284, 6310 to 6313, 6317, 6354 to 6357, 6366, 6410, 6455, 6458, 6559, 6564, 6627 to 6629 (with 6732, 6733), 6634 to 6647, 6649 to 6652, 6654 to 6672, 6674 to 6683, 6689 to 6691, 6694, 6733 to 6741, 6784 to 6786, 6815, 6821, 6828, 6836 to 6838, 6868, 6883, 6929 to 6933, 6944, 6959 to 6964, 6998 to 7005, 7060, 7082 to 7084, 7106, 7157 to 7160, 7168, 7176 to 7179, 7289, 7348, 7354 to 7363, 7365 to 7368, 7370 to 7373, 7380, 7382 to 7384, 7386 to 7387, 7389, 7393, 7395, 7397, 7400 to 7402, 7404 to 7407, 7409, 7411 to 7414, 7416, 7418 to 7424, 7426 to 7450, 7452 to 7453, 7455 to 7480, 7488 to 7489, 7492, 7501 to 7502, 7510 to 7518, 7520 to 7521, 7631, 7633, 7634, 7636, 7698, 7714, 7718 to 7720, 7740 to 7744, 7749 to 7750, 7762, 7767, 7769, 7770, 7804, 7815 to 7816, 7823, 7908, 7943, 8023, 8024, 8036, 8066, 8067, 8089, 8092, 8163, 8166, 8173, 8175 to 8181, 8210 to 8211, 8213, 8215, 8221 to 8222, 8255 to 8261, 8289 to 8294, 8309, 8370 to 8371, 8373, 8374, 8376 to 8379, 8424 to 8426, 8455, 8460, 8468, 8475, 8477, 8478, 8481, 8486, 8494, 8496, 8511, 8554, 8596, 8602 to 8604, 8606, 8607, 8609 to 8615, 8632 to 8676, 8678 to 8683 (WITH SCA 8685/93), 8686, 8694 to 8696, 8723, 8744, 8750, 8752, 8768, 8769, 8771 to 8774, 8804, 8810, 8850, 8852 to 8868, 8872 to 8875, 8877 to 8966, 8973, 8976 to 8977, 8999, 9003 to 9011, 9020, 9064, 9068, 9070 to 9072, 9139, 9147, 9170, 9174, 9205 to 9209, 9215 to 9218, 9230, 9232, 9233, 9253, 9256 to 9260, 9276, 9298, 9301 to 9307, 9323 to 9326, 9328 to 9331, 9333 to 9334, 9341 to 9343, 9348 to 9350, 9354 to 9357, 9375 to 9377, 9387, 9393, 9398, 9400, 9421, 9424, 9425, 9428 to 9432, 9437, 9456 to 9461, 9473 to 9480, 9511 to 9521, 9526, 9530 to 9533, 9550 to 9554, 9578, 9613, 9644 to 9647, 9664 to 9666, 9701, 9702, 9750 to 9763, 9779, 9781, 9814 to 9819, 9821 to 9824, 9890, 9912 to 9914, 9920, 9935 to 9939 ALL OF 1993.

SCA 10008 TO 10011, 10042, 10044, 10045, 10051, 10072 to 10076, 10079, 10106, 10116, 10163 to 10165, 10169, 10171, 10172, 10177, 10191 to 10196, 10257, 10259, 10260, 10262 to 10269, 10275 to 10277, 10288, 10294, 10301, 10313, 10324 to 10349, 10351 to 10384, 10387 to 10417, 10419 to 10425, 10427 to 10442 (WITH SCA 10426/93, 10418/93), 10443, 10445 to 10460, 10492 to 10497, 10509, 10575, 10587 to 10590, 10634 to 10636, 10644 to 10655, 10658 to 10660, 10662, 10663, 10665 to 10684, 10733, 10735 to 10737, 10746, 10747, 10751, 10752, 10767, 10769, 10798, 10799, 10822, 10868, 10884, 10893, (WITH SCA/10908/93 WITH SCA/10910/93), 10894 to 10907, 10909, 10911 ALL OF 1993.

SCA NO. 10912 TO 10915, 10924, 11049, 11058 TO 11061, 11092, 11105 TO 10008, 11110, 11106, 11107, 11177, 11179, 11180 TO 11185, 11187 TO 11194, 11198, 11209, 11210, 11260, 11286, 11288 TO 11290, 11351, 11352, 11547 TO 11549, 11554, 11572, 11645, 11647, 11803, 11805, 11807, 11809 TO 11811, 11814 TO 11822, 12079 TO 12080, 12118, 12124, 12161 TO 12163, 12369 TO 12373, 12468, 12565 TO 12568, 12645, 12647, 12648, 12762, 12764, 12773, 12876, 12927 TO 12938, 12940, 12944, 12949, 13187, 13215, 13216 TO 13220, 13268, 13270, 13334, 13343, 13344, 13346 TO 13348, 13362, 13391, 13462 TO 13464, 13500 TO 13510, 13563, 13620 TO 13632, 13699, 13703 TO 13707, 13724, 13736 TO 13738, 13762, 13764 TO 13766, 13768 TO 13770, 13779 TO 13781, 13833, 13837, 13852 TO 13880, 13898 TO 13899, 13906, 13921, 13933, 13934, 13944, 13952, 13953, 13967, 13970, 13977 TO 13981, 13987 TO 13988, 13991, 14079, 14171, 14176, 14189, 14212 TO 14221, 14239 TO 14243, 14247, 14249 TO 14252, 14254 TO 14258, 14290, 14351, 14352, 14442 TO 14450, 14457, 14490 TO 14497, 14502 TO 14507, 14549 ALL OF 1993.

SCA NO. 43, 98, 105 TO 107(WITH SCA 14483/93), 108, 109, 128, 137 TO 214, 224 TO 225, 231, 238, 239, 243 TO 248, 264, 265, 275, 277, 281 TO 288, 290 TO 296, 307 TO 317, 319, 324 TO 352, 410, 418, 419, 428, 438, 442 TO 446, 461, 477, 481 TO 483, 530, 604, 607 TO 610, 615 TO 625, 665 TO 670, 708 TO 814, 837, 851 TO 864, 889 TO 893, 895 TO 908, 918 TO 928, 930 TO 943 (WITH SCA 14483/93), 951 TO 952, 954 TO 957, 1054 TO 1080, 1085, 1104, 1111, 1128 TO 1135, 1178, 1216 TO 1224, 1248 TO 1250, 1266, 1310 TO 1331, 1334, 1345 TO 1367, 1373 TO 1374, 1377, 1380, 1393 TO 1399, 1409 TO 1428, 1430 TO 1441, 1466, 1478 TO 1485, 1570 TO 1579, 1588 TO 1597, 1623 TO 1635, 1656, 1657, 1662 TO 1663, 1666 TO 1667, 1675, 1705, 1755 TO 1771, 1816, 1823, 1824, 1826, 1827, 1847, 1853, 1854, 1859 to 1872, 1875, 1876, 1884 to 1899, 1933, 1940, 1946, 1947, 2111, 2119 to 2129, 2163 to 2166, 2212, 2223, 2272 to 2319, 2370 to 2376, 2424 to 2428, 2480 to 2512 ALL OF 1994.

SCA 2513 TO 2526, 2528 TO 2538, 2545 TO 2552, 2571, 2582, 2586, 2587 TO 2599, 2601 TO 2605, 2656, 2669 TO 2690, 2699, 2700, 2705, 2756, 2762, 2763, 2775, 2783 TO 2784, 2812, 2818, 2819, 2824, 2824, 2838, 2839 TO 2840, 2863 TO 2865, 2891, 2893, 2991 TO 2995, 2997, 3000, 3020, 3030 TO 3034, 3040 TO 3071, 3089 TO 3092, 3095, 3114, 3119 TO 3123, 3126 TO 3128, 3136 TO 3169, 3181, 3296, 3297, 3360 TO 3366, 3373, 3390 TO 3403, 3444 TO 3447, 3456, 3491 TO 3520, 3522 TO 3586, 3596 TO 3599, 3645 TO 3650, 3654, 3661 TO 3666, 3671, 3680, 3707, 3715, 3716, 3720 TO 3724,

3726 TO 3757, 3762, 3788 TO 3790, 3796, 3801, 3808, 3843, 3992 TO 4000, 4010 TO 4029, 4032, 4033, 4035 TO 4046, 4057, 4117 TO 4121, 4133 TO 4166, 4238, 4241 TO 4258, 4280 TO 4281, 4286 TO 4291, 4294, 4300, 4304 TO 4307, 4312 TO 4365, 4382, 4396, 4403 TO 4410, 4430, 4448 TO 4458, 4515, 4521 TO 4627, 4692 TO 4697, 4706 TO 4717, 4724, 4733, 4738 TO 4741, 4743, 4745 TO 4766, 4775, 4777 TO 4784, 4787 TO 4799, 4817, 4818, 4866, 4868, 4870, 4903, 4922, 4930, 4936, 4937, 4941 TO 4964, 4987, 5049, 5056, 5058, 5098 TO 5101, 5116 TO 5118, 5133 (WITH SCA 5182, 5183/94), 5213, 5231, 5237, 5249 TO 5270, 5293, 5322, 5327, 5335, 5363, 5365, 5377 TO 5385, 5405 TO 5409, 5427, 5458 TO 5678, 5772 WITH 5773, 5782 WITH 5785/94, 5807 TO 5810, 5833 TO 5900, 5913, 5915 TO 5918, 5920 WITH 5921/94, 5935, 6011 TO 6017, 6057, 6083, 6085 TO 6087, 6114 TO 6116, 6120, 6128 TO 6134, 6142, 6143, 6145, 6147, 6144, 6168 TO 6193, 6203 TO 6215, 6224, 6232, 6244 ALL OF 1994.

SCA NO. 6252 TO 6256, 6276 TO 6282, 6297 TO 6303, 6326 TO 6334, 6341, 6343 TO 6368, 6375, 6379, 6382, 6383, 6392, 6399, 6404 TO 6408, 6441 TO 6444, 6472 TO 6487, 6494, 6513, 6515 TO 6522, 6528 TO 6548, 6569 TO 6571, 6617 TO 6618, 6620 TO 6637, 6640 TO 6674, 6711, 6720, 6723, 6743, 6759 TO 6761, 6763 TO 6776, 6778, 6779, 6787, 6788 TO 6792, 6798, 6810, 6820, 6823 TO 6825, 6835, 6846, 6847, 6850, 6857, 6858, 6906, 7003, 7004, 7013 TO 7028, 7604 TO 7629, 7647, 7666 TO 7691, 7706, 7715, 7737 TO 7739, 7770, 7782 TO 7787, 7815 TO 7820, 7848, 7854, 7863 TO 7871, 7873, 7879, 7909, 7918 TO 7920, 8013 TO 8033, 8042 TO 8045, 8053, 8054, 8068, 8083 TO 8088, 8092 TO 8124, 8135, 8154, 8164, 8166, 8167, 8176 TO 8181, 8233, 8256, 8272 TO 8290, 8306, 8371, 8448, 8457, 8458, 8476 TO 8480, 8509, 8513, 8517 TO 8521, 8529 TO 8535, 8554, 8585 (WITH SCA/951/90 AND 1655/90), 8594 TO 8595, 8624 TO 8625, 8655 TO 8660, 8675 TO 8676, 8678 TO 8684, 8686 TO 8763, 8768 TO 8770, 8775 TO 8776, 8797, 8836, 8854, 8857, 8863 TO 8875, 8884, 8889 TO 8899, 8906, 8912, 8943 TO 8956, 8967, 8970, 8978, 8994, 9004 TO 9011, 9032, 9044, 9047 TO 9052, 9057, 9061 TO 9063, 9086 TO 9099, 9117, 9125 TO 9130, 9214, 9215, 9235 TO 9236, 9239 TO 9240, 9290, 9295, 9296, 9305, 9318, 9334, 9336 TO 9352, 9354 TO 9443, 9454, 9461, 9480 TO 9483, 9494, 9518, 9533, 9535 TO 9537, 9573, 9582 TO 9585, 9601, 9661, 10113, 10129 TO 10136, 10139 TO 10140, 10144, 10197, 10216, 10218 TO 10242, 10418, 10420, 10537, 10538, 10617, 10618, 12537, 11167, 12538 ALL OF 1994.

9966/95, 2484/96.

EXCEPT

SCA NOS. 9625/92, 2206/93, 2665/93, 3999/93, 5969/93,
7060/93, 7084/93, 7767/93, 8486/93, 530/94, 1933/94,
3030/94, 3031/94, 3089/94, 3092/94, 3095/94, 4300/94,
6392/94 (WITH SCA 14483/93), 6798/94 (WITH SCA 14483/93),
8797/94, 8994/94 (WITH SCA 14483/93) AND SCA 9117/94.

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KANTILAL V RELIA

Versus

STATE OF GUJARAT

Appearance:

M/S HJ NANAVATI, PR NANAVATI, MUKESH R SHAH, SB VAKIL, RR MARSHAL, RS SANJANWALA, SH SANJANWALA, MP PRAJAPATI, SN SOPALKAR, PRASHANT DESAI, SURAJ K SHAH, JJ YAGNIK, BK PARIKH, PB MAJMUDAR, MS HIMALI DAVE, CH VORA, RC JANI, KS ZAVERI, RD DHOLAKIA, RC KAKKAD, AN PATEL, PK SHUKLA, YS MANKAD, SUNIL C PATEL, HARIN RAVAL, AJ DESAI, CJ VIN, AN PATEL, SURESH M SHAH, PN BAVISHI, DA BHRHMBHATT, BHARAT T RAO, DD VYAS, JR NANAVATI, NM KAPADIA, JB PARDIWALA, RR TRIVEDI, UM PANCHAL, YS LAKHANI, RAJENDRA PATEL, JAYANT PATEL, M/S S. & S. ASSOCIATES, RV DESHMUKH, PJ PATEL, HD VASARDH, SV BACHANI, JT TRIVEDI, MRS KETTY MEHTA, AJ PATEL, RC JANI, BS PATEL, AJAY MEHTA, KM PATEL, BV PARIKH, PK JANI, MS SHEELA AHUJA, MS VASUBEN SHAH, SM MARGAOKAR, MI HANE, NK MAJMUDAR, BS PATEL, CL SONI, GK UPADHYAY, MA KHARADI, BC DAVE, MM DOSHIT, KH BAXI, PM BHATT, BHARAT R PANDYA, NP NANAVATI, AR THAKKAR, RAVI R TRIPATHI, MM TIRMIZI, BK OZA, SHAILESH PARIKH, HARESH TRIVEDI, DJ BHATT, MI HARA,

KK TRIVEDI, MID PATEL, BA SURTI, BM JANI, HT SONPURA, BY
MANKAD, MB BUCH, MS MITA R TALREJA, BHARAT DAFTARI, MC
BHATT, KETAN K TRIVEDI, MS DAXA I VYAS, DM BHATT, AMAR N
BHATT, PK JANI, SK PATEL, BM MANGUKIA, ANIL DAVE, JAYESH
PATEL, GM AMIN, NILESH PANDYA, RJ OZA, MY NAGARKAR, PR
ABHICHANDANI - for the petitioners in different Special
Civil Applications.

Versus

Mr S.N.Shelat, Addl. Adv. General with Mr M.R.Raval, AGP
instructed by

Mr H.M.Bhagat for all the respondents in all the matters
of Stamp Act for State of Gujarat

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 20/02/97

ORAL COMMON JUDGEMENT

1. In this group of Special Civil Applications known as "Stamp", the matters were argued at length. During the course of arguments, it was considered expedient to make a reference to the Larger Bench on one of the important question and as such, this Court, by order dated March 23, 1995, made a reference to the Larger Bench, which has now been answered as reported in case of Shaileshkumar vs. Sub-Registrar, Vadodara reported in 1996 (3) GLR 783.

2. In view of the decision of the Larger Bench, this group of Special Civil Applications are disposed of in the following manner :

3. Broadly, there are two sets of cases :-

(A) In some cases, the notice issued by the authorities under the Stamps Act has been challenged without filing the reply before the said authority. In such cases, it will be open for the petitioners to file a reply before such authority within a period of eight weeks from today. If such a reply is submitted within a period of eight weeks, the competent authority shall not raise any objection about the delay.

By way of interim relief, the recovery shall not be given effect to till the matter is finally decided in accordance with the law.

(B) In the second set of cases, the challenge is to order under 32-A of the Bombay Stamp Act, 1958. In such cases, the petitioners may avail the remedy available under the Act within a period of eight weeks from today. It will be open for the petitioners to raise all the contentions available, which shall be decided by the authority in accordance with the law. If the remedy is availed within a period of eight weeks, the authority shall not raise any objection with respect to delay. There shall be stay on recovery under impugned order till the question with respect to the hardships under proviso to Section 32(1) is decided.

4. In view of the aforesaid, this entire group of Special Civil Applications stand disposed of. Rule discharged. Cost easy.

FEBRUARY 20, 1997 [N.N.MATHUR, J.]

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